
SENATE BILL No. 8

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-36-1.

Synopsis: Priority to consent for incapable individuals. Establishes the order of priority of persons who may consent to health care for an individual who is incapable of consenting and has not appointed a health care representative.

Effective: July 1, 2006.

Steele

January 9, 2006, read first time and referred to Committee on Judiciary.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 8

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-36-1-5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) If an individual
3 incapable of consenting under section 4 of this chapter has not
4 appointed a health care representative under section 7 of this chapter
5 or the health care representative appointed under section 7 of this
6 chapter is not reasonably available or declines to act, consent to health
7 care may be given **by a person in the order of priority listed in**
8 **subsection (b) who:**

9 (1) **is not disqualified under section 9 of this chapter;**

10 (2) **is reasonably available; and**

11 (3) **does not decline to act;**

12 **if the existence of a guardian or other representative is unknown**
13 **to the health care provider.**

14 (b) Subject to subsection (a), the following persons may in the
15 following order of priority consent to health care for an individual
16 incapable of consenting:

17 (1) ~~by~~ A judicially appointed guardian of the person or a



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representative appointed under section 8 of this chapter. or
 (2) by A spouse, a parent, an adult child, or an adult sibling;
 unless disqualified under section 9 of this chapter; if:

(A) there is no guardian or other representative described in
 subdivision (1);

(B) the guardian or other representative is not reasonably
 available or declines to act; or

(C) the existence of the guardian or other representative is
 unknown to the health care provider; or

(3) A parent.

(4) An adult child.

(5) An adult sibling.

(6) The individual's religious superior, if the individual is
 a member of a religious order. and:

(A) there is no guardian or other representative described in
 subdivision (1);

(B) the guardian or other representative is not reasonably
 available or declines to act; or

(C) the existence of the guardian or other representative is
 unknown to the health care provider.

(c) Consent to health care for a minor not authorized to consent
 under section 3 of this chapter may be given by any of the following:

(1) A judicially appointed guardian of the person or a
 representative appointed under section 8 of this chapter.

(2) A parent or an individual in loco parentis if:

(A) there is no guardian or other representative described in
 subdivision (1);

(B) the guardian or other representative is not reasonably
 available or declines to act; or

(C) the existence of the guardian or other representative is
 unknown to the health care provider.

(3) An adult sibling of the minor if:

(A) there is no guardian or other representative described in
 subdivision (1);

(B) a parent or an individual in loco parentis is not reasonably
 available or declines to act; or

(C) the existence of the parent or individual in loco parentis is
 unknown to the health care provider.

(d) An individual delegated authority to consent under section
 6 of this chapter has the same authority and responsibility as the
 individual delegating the authority.

(e) An individual authorized to consent for another under this

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1 section shall act in good faith and in the best interest of the individual
 2 incapable of consenting.

3 SECTION 2. IC 16-36-1-6 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) An individual
 5 authorized to consent to health care for another under section ~~5(a)(2)~~,
 6 5(b)(2), ~~or~~ 5(b)(3), **5(b)(4), 5(b)(5), 5(c)(2), or 5(c)(3)** of this chapter
 7 who for a time will not be reasonably available to exercise the authority
 8 may delegate the authority to consent during that time to another
 9 individual not disqualified under section 9 of this chapter. The
 10 delegation:

11 (1) must be in writing;

12 (2) must be signed by the delegate;

13 (3) must be witnessed by an adult; and

14 (4) may specify conditions on the authority delegated.

15 (b) Unless the writing expressly provides otherwise, the delegate
 16 may not delegate the authority to another individual.

17 (c) The delegate may revoke the delegation at any time by notifying
 18 orally or in writing the delegate or the health care provider.

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